

1  
2  
3  
4  
5  
6  
7  
8 IN THE UNITED STATES DISTRICT COURT  
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
10

11 NICOLE WATERHOUSE,

No C-09-4942 VRW (PR)

12 Petitioner,

13 v

ORDER DISMISSING PETITION FOR  
WRIT OF HABEAS CORPUS; DENYING  
CERTIFICATE OF APPEALABILITY

14 PAUL COPENHAVER, Warden, et al,

15 Respondent(s).

16 \_\_\_\_\_/

17  
18 This habeas corpus action by pro se prisoner Nicole  
19 Waterhouse was filed on October 16, 2009. Doc #1. The court  
20 notified petitioner in writing at that time that the action was  
21 deficient because she did not pay the requisite \$ 5.00 filing fee  
22 or, instead, submit a signed and completed court-approved in forma  
23 pauperis application, including a completed certificate of funds in  
24 her prison account and a copy of her prison trust account statement  
25 for the last six months. See 28 USC § 1915(a)(2). Petitioner was  
26 advised that failure to file the requested items within thirty days  
27 would result in dismissal of the action. Doc #4.

28 //

1 Over forty-five days have elapsed since petitioner was  
2 notified of her filing deficiency; however, she has not provided the  
3 court with the requisite items, or sought an extension of time to do  
4 so. The action, therefore, is DISMISSED without prejudice subject  
5 to filing a new habeas action accompanied by the requisite \$5.00  
6 filing fee or a signed and completed in forma pauperis application.  
7 Further, a certificate of appealability is DENIED. See Rule 11(a)  
8 of the Rules Governing Section 2254 Cases (effective Dec 1, 2009).  
9 Petitioner may not appeal the denial of a certificate of  
10 appealability in this court but may seek a certificate from the  
11 court of appeals under Rule 22 of the Federal Rules of Appellate  
12 Procedure. Id.

13 The clerk shall terminate all pending motions as moot,  
14 enter judgment in accordance with this order and close the file.

15  
16 IT IS SO ORDERED.

17  
18 

19 VAUGHN R WALKER  
20 United States District Chief Judge